

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

REGINALD ORLANDO SHARP,)	
#276 220,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2:17-CV-459-MHT
)	[WO]
SGT. MS. MITCHELL,)	
)	
Defendant.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

On July 17, 2017, the court directed Plaintiff to forward to the Clerk of Court an initial partial filing fee for \$32.07. Doc. 3. Plaintiff was cautioned that his failure to comply with the July 17 order would result in a Recommendation that his complaint be dismissed. Doc. 3. The court granted Plaintiff two extensions to comply with the directive that he submit an initial partial filing fee. Docs. 9 & 11. As of the present date, however, Plaintiff has failed to comply with the court's July 17 order. The court, therefore, concludes that this case should be dismissed.

The court has reviewed the file to determine whether a measure less drastic than dismissal is appropriate. After this review, the court concludes that dismissal is the proper course of action. Plaintiff's inaction in the face of the court's orders suggests he does not seek to proceed with this case. It, therefore, appears that any additional effort by this court to secure his compliance would be unavailing. *Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989) (holding that, as a general rule, dismissal for failure to obey a court order is not an abuse of discretion where a litigant has been forewarned); *see also Tanner v. Neal*, 232 F. App'x 924 (11th Cir. 2007) (affirming *sua sponte* dismissal without prejudice of inmate's § 1983 action for failure to file an amended

complaint in compliance with court's prior order directing amendment and warning of consequences for failure to comply).

Accordingly, it is the RECOMMENDATION of the Magistrate Judge this case be DISMISSED without prejudice for Plaintiff's failures to prosecute this action and comply with the orders of this court.

The Clerk of the Court is DIRECTED to file the Recommendation of the Magistrate Judge and to serve a copy on Plaintiff. Plaintiff may file any objections to the Recommendation **on or before October 31, 2017**. Any objections filed must specifically identify the factual findings and legal conclusions in the Magistrate Judge's Recommendation to which Plaintiff objects. Frivolous, conclusive or general objections will not be considered by the District Court. This Recommendation is not a final order and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar a party from a *de novo* determination by the District Court of factual findings and legal issues covered in the report and shall "waive the right to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions" except upon grounds of plain error if necessary in the interests of justice. 11th Cir. R. 3-1; *see Resolution Trust Co. v. Hallmark Builders, Inc.*, 996 F.2d 1144, 1149 (11th Cir. 1993); *Henley v. Johnson*, 885 F.2d 790, 794 (11th Cir. 1989).

DONE on this 17th day of October, 2017.



GRAY M. BORDEN
UNITED STATES MAGISTRATE JUDGE